

STATE OF SOUTH DAKOTA)
COUNTY OF MINNEHAHA) :SS

IN CIRCUIT COURT
SECOND JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA

vs.

AFFIDAVIT IN SUPPORT
OF APPLICATION FOR
ARREST WARRANT

CRJ19-1657

Bentaas, Theresa Rose
DOB [REDACTED]

Defendant

I, Patrick Mertes, being first duly sworn on oath, deposes and states that he is a Detective of the Sioux Falls Police Department and states that he is one of the officers in charge of the investigation of the above-styled matter. That your Affiant makes this Affidavit in support of the State's Attorney's request for a warrant for the arrest of the above-named Defendant(s), and in compliance with SDCL 23A-2-2, and states as follows:

1. On 2-28-1981 Officers of the Sioux Falls Police Department responded to a call of a baby laying in the ditch in the area of what is now Sycamore Avenue, approximately one half mile south of 26th Street. This area was within the city limits of Sioux Falls, but was a hard surface road bordered by ditches. Sioux Falls Police Department case number 1981-5609 was generated for this call.
2. Officers located the body of a newborn baby boy laying on two blankets. The baby is believed to have been born on 02-27-1981. The newborn had the placenta still attached, and laying next to the baby was a pair of women's panties, a shirt, and Kleenex type material all with blood on them. Also located on the baby's legs were what appeared to be long dark hairs. The baby was deceased.

3. The baby's body was taken to the morgue where an autopsy was done on 3-2-1981. Dr. Richard Schultz and Dr. Brad Randall determined that the baby was born alive and was breathing during that time. They determined that the cause of death was most likely exposure and failure to assist the baby in maintaining an airway.
4. Detectives at that time interviewed a citizen who advised they observed the blankets there the day before, 2-27-1981, and one witness described a light-colored Datsun style vehicle parked in the area with a woman's legs hanging out, and some blankets on the ground at that time.
5. Detectives followed numerous leads in 1981 but could not find the mother or any family members of this infant. Eventually the tips and information ran out and the investigation went "cold".
6. In the Spring of 2009 Detective Mike Webb opened the case in the hopes of obtaining DNA evidence for testing as that technology did not exist in 1981. It was learned that all of the testable evidence had been destroyed in 1995.
7. Detective Mike Webb has had experience and training in DNA through basic and advanced homicide schools, as well as cold case investigation. Through this training, Detective Mike Webb had learned that DNA can be extracted from the bones and tissue of the body.
8. Detective Mike Webb researched labs that did this testing in 2009 and found the North Texas University Science Center, who was part of the National Institute of Justice, was involved in a grant that tested human remains for DNA. They are able to take samples from the bone and develop a DNA profile for comparison purposes. The lab personnel advised that the exhumation of the baby's body would be necessary to perform this exam.
9. After research, Detective Mike Webb found the baby's body to be buried in Saint Michael's Cemetery, 3001 North Cliff Avenue, Minnehaha County, Sioux Falls. Detective Mike Webb spoke with employees of George Boom Funeral Home who handled the body and funeral in 1981. It should be noted that at that time, the church did name the Baby "Andrew" John Doe with a

date of death of 2-28-1981 and he is interred in section 4, baby area, of the cemetery.

10. On 8-11-2009 Detective Mike Webb did present a Fact of Findings, Conclusions of Law and Order to Issue a Disinterment Permit to Circuit Court Judge Patricia Riepel who signed this order. The proper paperwork was approved by the State Department of Health and the Minnehaha County Commission. The baby was disinterred on 9-3-2009 and the appropriate remains were transported to the UNT lab in Texas. A DNA profile was obtained after extensive examination and the baby's body was reinterred on 6-16-2010. The DNA profile was forwarded to the South Dakota Forensics Lab.

11. This DNA profile was approved by the South Dakota Attorney General's office and the South Dakota State Lab for comparison with profiles in the South Dakota DNA database. No matches occurred from this comparison. Per policy, this sample is able to be run again at one year increments, and the last comparison was completed again in February 2018. There were again no matches in the South Dakota database.

12. Recent technology has been developed through genealogy and DNA profiles that have been successful in solving cold cases across the country. The Sioux Falls Police Department submitted the DNA sample taken from the baby's body to Parabon NanoLabs Inc. Parabon completed a Snapshot Genetic Genealogy of Baby Doe.

13. On 1-24-2019 Parabon completed a Genetic Genealogy Report. Parabon found two possible genetic familial matches using GEDMatch.com. GEDMatch.com is an open source website where participants upload genetic profiles that are used for genealogical research by amateur and professional researchers. Parabon found the 1st match showed a link between the baby and the donor #1 matching between sixth to seventh degree relationship. The 2nd match Parabon showed a genetic link between the baby and the donor #2 matching between sixth to eighth degree relationship.

14. Parabon advised that donor #1 was adopted but believed his biological mother was Pamela A Josten (deceased). Parabon advised Baby Doe was a

descendant from Mathis Krantz (deceased) and Lucia Brech (deceased) or possibly a descendant of Lucia's parents based on a limited genealogical family tree completed on donor #2. Due to the limited genetic information Parabon could not confirm if donor #1 and donor #2 were related to Baby Doe's mother or father.

15. Your Affiant utilized Ancestry.com, findagrave.com, and numerous other public domain research websites. Your Affiant constructed a family tree after discovering the parents of Lucia Brech. Your Affiant established from the union of Johann Brech (1818-1898) and Elizabeth L. Guy (1822-1890) that they had eight children. Your Affiant discovered that Johanna Brech and Elizabeth Guy is the Great Great Grand Parent of Paulette Brech DOB 05/09/1940.

16. Your Affiant built a family tree for Pamela A Josten. Your Affiant discovered that Pamela was a Josten through marriage to Arnold J Josten. Your Affiant discovered that Arnold Josten is 1st cousins with William Josten.

17. Your Affiant discovered a marriage between Paulette Brech and William Josten on 01-23-1960. Your Affiant believes this to be the genetic link between Donor #1 and Donor #2.

18. Your Affiant discovered three living children from Paulette and William. One of the offspring was identified as Theresa R. Josten DOB [REDACTED]. Theresa married Dirk W Bentaas DOB [REDACTED] in August 1987. Your Affiant checked Sioux Falls Geographic Information System (GIS) property owner list which showed them owning [REDACTED] South Saguaro Avenue, Sioux Falls, Minnehaha County, South Dakota.

19. Your Affiant drove by [REDACTED] South Saguaro Avenue on 2-4-2019. Your Affiant observed two sets of tire tracks in the snow indicating two vehicles are at the residence. Your Affiant believes this is consistent with two people living at the residence. Your Affiant conducted a "trash pull" on 2-11-2019. Your Affiant located numerous beer and water containers and used cigarette butts, these items were seized as evidence. Your Affiant located the wrapping for a package addressed to Theresa Bentaas. Numerous items were sent to the South Dakota Forensic Lab (SDFL) for DNA testing.

20. Your Affiant discovered Theresa and Dirk have two living children one son and one daughter. Through research it appears that both children no longer live in the house, but the son lives in Sioux Falls.

21. On 2-15-2019 Your Affiant received the SDFL report from the items sent for testing. The report stated that female DNA was located on a water bottle, Coors Light can and cigarette butts. The report stated the female DNA could not be excluded as being from the biological mother of Baby Doe. The report stated that male DNA was located on a water bottle. The report stated the male DNA could not be excluded as being the biological father of Baby Doe. The report stated a 2nd male DNA was located on a Samuel Adams Cold Snap bottle is consistent with being from the same paternal lineage (brother to Baby Doe).

22. On 02-27-2019, Your Affiant interviewed Bentaas, Dirk. During the interview, Bentaas admitted the defendant had a bump and then no bump around the time the Victim was found. Bentaas admitted to hearing about the Victim being found but did not believe the defendant was capable of doing such an act. A buccal swab was collected from Bentaas.

23. On 2-27-2019 Detective Mike Webb spoke with the defendant at her residence. She agreed to speak about this incident and it was explained to her that we were going to discuss what happened in 1981. The defendant stated she was "young and stupid". The defendant admitted to being pregnant in 1980-1981 and hid the pregnancy from family and friends. The defendant stated she had the child in her apartment alone, then drove the baby to the place where he was later discovered.

24. The defendant stated the sheets and blankets must have been from her apartment and the baby was on the passenger seat while she drove to the edge of town. When asked why she picked that particular spot she said "proximity". She stated she thought the baby was starting to cry and was moving on the passenger seat but she couldn't remember for sure.

25. When asked what she was thinking when she drove away from that ditch she stated she was sad, scared, and she ran from it and it was not smart. She

was asked if she saw this on the news after the baby was discovered and she said she did, and that she was in denial that she was the one responsible for that. When asked if she thinks about it when she drives by the area now, she stated "of course".

26. On 03-04-2019, Your Affiant received the results from the buccal swab samples of the defendant and Bentaas, Dirk. The results showed that the defendant and Bentaas, Dirk are 18.2 Trillion times more likely to have the same genetic results with Baby "Andrew" John Doe than an unrelated person in the general population. The report states there is an extremely strong evidence to support biological relationship between the defendant, Bentaas, Dirk and Baby "Andrew" John Doe.

27. All of these events occurred in Sioux Falls, Minnehaha County, South Dakota.

Patrick J. Mertes

Patrick J. Mertes

Subscribed and sworn before me this 7 day of March, 2019.

Angela McVay
Notary Public

